

## Innocent Spouse Program aims to be flexible, responsive

When two people file a joint state income tax return, both individuals are legally responsible for paying the entire tax. However, there are provisions in the Revenue and Taxation Code authorizing relief for qualifying taxpayers from this joint and several liability.

In 1970, the United States Congress first enacted legislation to provide relief for married taxpayers who were innocent spouses. The California legislature thereafter passed a similar state innocent spouse provision. The federal and state provisions for innocent spouse relief were later amended to broaden the availability of relief.

In 1998, the federal innocent spouse provisions were substantially revised to provide greater opportunities for relief. The following year California conformed to the new federal provisions by enacting the Taxpayer's Bill of Rights of 1999, which revised and amended California's Revenue and Taxation Code section 18533. The new state provisions required significant changes in the administration of our Innocent Spouse Program, a virtual reorganization of the program.

During the reorganization of our Innocent Spouse Program we conducted focus groups with tax practitioners. This allowed the tax practitioners to express their concerns regarding the program administration. As a result of such input and our reexamination of program administration, improvements to the

### Governor proposes mandatory e-file

The Governor's 2002-2003 initial budget plan calls for the implementation of a mandatory e-file program.

Under such a program, tax preparers who prepare more than 100 California individual income tax returns for tax year 2001 must file all subsequently prepared individual income tax returns electronically. The objective, of course, is to reduce the cost of processing paperwork, both for preparers and for the state.

This proposed mandatory e-file program could result in a shift of 2.5 to 4.5 million returns from paper to e-file, resulting in a savings of over one million tax dollars in its first year of implementation.

The proposal, which will be presented as legislation in the near future, will affect Revenue and Taxation Code sections 18409, 18621.9, and 19170. It imposes a \$50 per return penalty on those tax practitioners or businesses that did not comply.

We will provide you more information regarding mandatory e-file as it becomes available. But as the proposal develops, we'd like to know what you think. Please let us know by contacting [Julie.Moreno@ftb.ca.gov](mailto:Julie.Moreno@ftb.ca.gov).

## Inside...

Tax forgiveness for service members who die in combat  
Page 2

Ask the Advocate: Guidelines for filing protest  
Page 3

Go online for fast help with our notices  
Page 4

October 15, 2002 – Last day to e-file!  
Page 4

Proposed legislation affecting credits, conformity, losses, exclusions, etc.  
Page 5

## Tax News

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**TAX NEWS** is a bimonthly publication of the Communications Services Bureau, California Franchise Tax Board. Its primary objective is to provide information to income tax practitioners about state income tax laws, regulations, policies and procedures.

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# State provides tax forgiveness for service members who die in combat

The Victims of Terrorism Tax Relief Act of 2001 *enacted earlier this year made some revisions to combat zone/terrorist-military action tax forgiveness for federal purposes*

*While California has not yet conformed to these changes, service members who die while serving in a combat zone or as a result of wounds, injuries, or disease incurred in a combat zone; are entitled to a certain amount of tax forgiveness in California.*

If a service person dies while on active service in a declared combat zone, or as a result of wounds, injuries, or disease incurred in a combat zone, the decedent's entire income tax liability is forgiven for the year of death and for any earlier tax year beginning with the year of service in a combat zone.

This forgiveness provision also applies to service members serving outside the combat zone if:

- The service was in direct support of a military operation in the combat zone, and
- The service member qualified for special military pay for duty subject to hostile fire or imminent danger.

### Terroristic or military action forgiveness

The tax liability is forgiven for an individual who:

- Is a military or civilian U.S. employee at death, and
- Dies from wounds or injuries incurred in a terroristic or military action outside the United States.

The forgiveness applies to the tax year death occurred and for any earlier tax year beginning with the year before the year in which the wounds or injury occurred.

A terroristic or military action is any terroristic activity primarily directed against the United States or its allies, and any military action involving the U.S. Armed Forces and resulting from violence or

aggression (or the threat of such violence or aggression) against the United States or its allies.

### Joint returns

Only the decedent's part of the joint income tax liability is eligible for the refund or tax forgiveness (See Revenue and Taxation Code Section 17142.5).

### Claiming tax forgiveness

If either of these tax forgiveness provisions applies to a prior year's tax that has been paid, a claim for refund can be filed within the statute of limitations for refunds.

For the current year's tax, file a timely original return to claim the tax forgiveness and get a refund of tax withheld or estimated tax payments.

Attach a certification from the Department of Defense or Department of State to substantiate that the requirements for tax forgiveness have been met.

**Note:** If death occurred in a combat zone or from wounds, disease or injury incurred in a combat zone, the deadline for filing a return or claim for refund is extended under the California Combat Zone Extension. (See Revenue and Taxation Code Sections 18570 and 18571.)

## San Francisco field office relocates

Our San Francisco field office is scheduled to relocate in June. The new address will be:

121 Spear Street,  
Suite 400  
San Francisco CA  
94105-1584

We don't anticipate any interruption of service.

# Innocent spouse

*Continued from page 1*

program administration were made. Here are some of the improvements:

**New Innocent Spouse Unit.** We formed a team of specialists dedicated solely to the Innocent Spouse Program. The mission of the team is to relieve qualifying taxpayers of tax liabilities, related penalties and interest, for which their spouse (or former spouse) is liable. These innocent spouse specialists, dedicated to high quality customer service, are using a more proactive, service-oriented approach.

The following timeframes apply to all requests for relief other than those made under protest. Within 48 hours of receipt of a claim for relief, we'll send written notification to applicants or their representatives letting them know that their claim has been received. Within 45 days, our specialists will contact applicants or their representatives by telephone to discuss their requests and assist them in obtaining the documentation needed to evaluate their case. When full relief cannot be granted, the specialist will assist in exploring other options for the voluntary resolution of the liability. The specialists of the Innocent Spouse Unit are available between 8 a.m. and 5 p.m. at (916) 845-7072.

**An examination of our policies and procedures.** We have sought to create policies and procedures that embody the letter and spirit of the new provisions for innocent spouse relief and our focus on seamless customer service. This has resulted in a more flexible approach to making sure applicants for relief satisfy the statutory requirements for relief. Because of the change in the law, policies and procedures, there have been a greater number of applicants and a greater percentage of applicants able to demonstrate entitlement to relief.

**Law changes.** We are working on a legislative proposal to amend the income

and liability thresholds prescribed in Revenue and Taxation Code section 19006(b). Such an amendment would allow couples to resolve many state tax liabilities within their marriage dissolution process.

**New brochure.** We have revised our innocent spouse brochure to simplify the language and format. The new brochure is now available.

**Innocent spouse application form.** We are working on a simple form that will help taxpayers determine which innocent spouse provisions may apply to their circumstances and what information we need to consider their case.

**New web page.** We are creating a web page where the public can learn about the Innocent Spouse Program. By answering a few questions, they can determine whether they may qualify for innocent spouse relief and what documentation needs to be submitted.

Our evaluation of the Innocent Spouse Program resulted in the conclusion that many more taxpayers may qualify for relief from tax liabilities if they, or their family law attorneys, possessed the information necessary to properly address tax liabilities during divorce proceedings. While taxpayers often attempt to address the issue of outstanding, or potential, tax liabilities within their marital settlement agreements, only a small number actually follow the specific statutory provisions for obtaining relief as part of the divorce process that are contained in Revenue and Taxation Code section 19006(b). The number of post-marital claims for innocent spouse relief would be greatly reduced by an increase in the number of divorce actions that accurately follow the provisions of section 19006(b).

To assist taxpayers in obtaining relief from tax liabilities, we are taking advantage of opportunities to educate taxpayers, tax practitioners, and family law attorneys on the qualifying criteria. A clearer understanding of the criteria

*Continued on page 12*

## Ask the Advocate



**Debbie Newcomb**  
Taxpayer  
Advocate

**Q:** My client does not agree with the results of a Franchise Tax Board audit. How do I file a protest against the Notice of Proposed Assessment?

**A:** When we issue a Notice of Proposed Assessment, your client has 60 days from the date we mailed the notice to file a letter of protest with us. Information on the front of the notice indicates the deadline for your client to file a protest. We also include instructions on how to file a letter of protest with the Notice of Proposed Assessment. The protest does not stop the accrual of interest. Interest accrues on unpaid taxes from the original due date of the return until the date we receive payment. We may suspend or waive interest in limited circumstances.

Your written protest must clearly state what you are protesting and why. Please include:

*A copy of the notice.* If you cannot provide us a copy, send us the date of the Notice of Proposed Assessment and the identifying number that appears on the notice.

*Your client's name and social security number or entity identification number.*

*Continued on page 12*

# Send clients online for fast help with our notices

If you have clients who haven't filed their tax year 2000 returns yet, they can probably expect to find a reminder from us in their mailbox in the upcoming weeks.

Notices are currently being mailed to approximately 700,000 individuals whom we have identified as possibly having a requirement to file, but for whom no 2000 tax return is on file.

The year 2000 is the second tax year for which we generated notices using our new Integrated Nonfiler Compliance system. The notices issued by this new system are much easier to understand

than their predecessors were; and, there are various ways taxpayers can respond to the notices, including:

- **Our public website at [www.ftb.ca.gov/INC](http://www.ftb.ca.gov/INC).** Taxpayers can receive information geared towards the type of notice they received, obtain additional time to reply to the notice, download tax forms, and even resolve their own case if they have already filed the required return.
- **Our Interactive Voice Response phone system.** Taxpayers can get answers to commonly asked questions, order tax forms, request additional time to respond to the

notice, and resolve their own case if they have already filed the required return. The number is (866) 204-7902

For those who don't like phones or don't have access to the Internet, they can always fax their response to the number listed on their notice or just mail it to the address shown on the notice. While there are various options on how to respond, the only thing that really matters is that they do respond to the notice. Failure to do so will likely result in an assessment being issued based on whatever information we have available, and could include some avoidable penalties, interest and fees.

## Oct. 15, 2002 – Last day to e-file!

You can still e-file California tax returns during the six-month extension period following the April 15, 2002 deadline.

We will accept both refund and balance due returns through October 15, 2002. (Note: The extended due date for the Internal Revenue Service is August 15, 2002.) Please remember that any taxes owed must have been paid by April 15, 2002 to avoid any penalties and interest.

Take advantage of the many benefits of e-file. If you are not yet an approved Electronic Return Originator (ERO) and you want to e-file your clients' tax returns during the extension period, complete the fillable form FTB 8633, California Application to Participate in the e-file Program, online at <http://www.ftb.ca.gov/elecserve/> in the section for e-file professionals. Once you have completed the application, print, sign, and send it to us. You may fax the completed application to our e-file Help Desk at (916) 845-0287, or mail it to the address shown on the application.

## Interest Rates

For the period of July 1, 2002, through December 31, 2002, the adjusted interest rate on underpayments and overpayments of California income taxes will be **six percent**. Here is a chronicle of the interest rate since January 1991.

Effective Date	Rate	Effective Date	Rate
1 July 1991 to 31 Dec. 1991	10%	1 Jan. 1997 to 30 June 1997	9%
1 Jan. 1992 to 30 June 1992	10%	1 July 1997 to 31 Dec. 1997	9%
1 July 1992 to 31 Dec. 1992	9%	1 Jan. 1998 to 30 June 1998	9%
1 Jan. 1993 to 30 June 1993	8%	1 July 1998 to 31 Dec. 1998	9%
1 July 1993 to 31 Dec. 1993	7%	1 Jan. 1999 to 30 June 1999	8%
1 Jan. 1994 to 30 June 1994	7%	1 July 1999 to 31 Dec. 1999	7%
1 July 1994 to 1 Dec. 1994	7%	1 Jan. 2000 to 30 June 2000	8%
1 Jan. 1995 to 30 June 1995	8%	1 July 2000 to 31 Dec. 2000	8%
1 July 1995 to 31 Dec. 1995	9%	1 Jan. 2001 to 30 June 2001	9%
1 Jan. 1996 to 30 June 1996	9%	1 July 2001 to 31 Dec. 2001	9%
1 July 1996 to 31 Dec. 1996	9%	Jan. 2001 to 30 June 2001	7%



# Proposed Legislation

Among the measures recently introduced or amended in the California Legislature are assembly (AB) and senate (SB) bills affecting credits, conformity, losses, and exclusions, as well as several Franchise Tax Board sponsored bills.

These are only summaries. If you want to learn more about a legislative measure you read about here, go to our Law and Legislation webpage located on our Website, [www.ftb.ca.gov](http://www.ftb.ca.gov). You also can find comprehensive information about all legislative measures on the Internet at [www.leginfo.ca.gov](http://www.leginfo.ca.gov), the Official California Legislation Information Website.

## Amnesty

### SB 1439 (Oller)

*As introduced February 14, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would require us to conduct a penalty amnesty program from January 1, 2003, to June 30, 2003, for liabilities under the Personal Income Tax Law and the Corporation Tax Law for taxable years beginning before January 1, 2002.

For any taxpayer who meets the requirements of the amnesty program, we would waive all penalties that are owed as a result of the nonreporting or underreporting of tax liabilities for the taxable years for which amnesty is requested. In addition, criminal action would not be brought against the taxpayer for the taxable years for which amnesty has been requested. The amnesty would not apply to the nonpayment of any taxes for which a notice of proposed assessment has been issued, unless the notice was issued prior to January 1, 1999, and enforcement action had not been taken.

## California Breast Cancer Research Fund

### SB 1365 (Speier)

*As introduced February 6, 2002*

This bill would extend the operation of the California Breast Cancer Research Fund from January 1, 2003, to January 1, 2008.

## California Tax Commission

### ACA 13 (Leonard)

*As amended January 7, 2002*

This bill would propose a state constitutional amendment that would:

- Change the name of the five-member Board of Equalization to the California Tax Commission, and
- Require the California Tax Commission to collect and administer taxes on or measured by income, herein referred to as income taxes.

## Conformity

### AB 1122 (Corbett)

*As amended March 20, 2002*

This bill would conform state law to child and dependent care credit, pension plan, Education Individual Retirement Arrangement (Coverdell Education Saving Account or Coverdell Account), and Qualified Tuition Plan changes contained in the Federal Economic Growth and Tax Relief Reconciliation Act of 2001. (EGTRRA). In particular, this bill would increase the following limitations:

- Education Individual Retirement Arrangement (IRA) annual contribution limits would increase from \$500 to \$2,000 and would permit contributions to be used for elementary and secondary school expenses.
- IRA and Roth IRA contribution limits would increase to \$3000 in 2002 through 2004, and eventually to \$5,000 by 2008 and thereafter, with

indexing in \$500 increments thereafter. Individuals 50 years and older would be allowed to contribute an additional \$500 to an IRA or Roth IRA in 2002 through 2005 and an additional \$1,000 beginning in 2006.

- Contributions to 401(k) plans and other employer-sponsored plans would increase to \$11,000 in 2002, and would increase incrementally to \$15,000 by 2006 and thereafter, with indexing in \$500 increments thereafter. Individuals would be allowed to contribute to both 457 and 401(k) plans.

This bill also would conform to the increase in the federal child and dependent care (CDC) credit. Thus, taxpayers could claim the same dollar amount of credit for state and federal purposes. (EGTRRA increased the maximum amount of eligible expenses from \$2,400 to \$3,000 and from \$4,800 to \$6,000, and increased the maximum credit from 30 percent to 35 percent. The federal changes also changed the phase-out of the credit (but not below 20 percent) from \$15,000 to \$43,000 of adjusted gross income).

In addition, this bill would conform state law to the federal changes made to qualified tuition plans that would permit the transfer of credits from one qualified tuition program to another qualified tuition program for the benefit of the same beneficiary.

This bill also would conform to the federal treatment of gifts of appreciated property for alternative minimum tax purposes, estimated tax payments of individuals, and the disallowance of club dues.

### AB 1743 (Campbell, John)

*As amended January 29, 2002*

This bill would conform state law to the

*Continued on page 6*

## Proposed Legislation

*Continued from page 5*

pension plan, Education Individual Retirement Arrangement (Coverdell Education Saving Account or Coverdell Account), and Qualified Tuition Plan changes contained in the Federal Economic Growth and Tax Relief Reconciliation Act of 2001. In addition, this bill would conform state law to the two new federal retirement related credits:

- A credit up to \$2,000 for specified individuals for qualified retirement savings.
- A credit up to \$500 for the first three years for pension plan start-up costs.

### **AB 1744 (Corbett)**

*As amended January 31, 2002*

This bill would conform to the Economic Growth & Tax Relief Reconciliation Act of 2001 (EGTRRA) relating to Internal Revenue Code Section 457 rollovers and purchase of service credits by public employees.

### **AB 1834 (Wyland)**

*As introduced January 23, 2002*

This bill would allow taxpayers to carry forward 100 percent of the net operating losses incurred in taxable years beginning on or after January 1, 2003. This is accomplished by limiting the 60 percent net operating losses carryover modification of federal law to apply only to taxable years beginning on or after January 1, 2002, and before January 1, 2003.

This bill would limit the 10-year net operating losses carryover modification of federal law to apply only to taxable years beginning on or before January 1, 2003, and thus conform to the federal 20-year carryover period for net operating losses incurred in taxable years beginning on or after January 1, 2003.

### **AB 2670 (Wyman)**

*As introduced February 22, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would exempt from taxation any California resident who died while on active duty with any branch of the armed forces of the United States during the taxable year, regardless of the cause of death.

### **AB 2978 (Assembly Revenue and Taxation Committee)**

*As introduced February 27, 2002*

This bill would conform state law to the federal changes enacted by the Victims of Terrorism Relief Act of 2001 (Public Law 107-134), relating to items that are specifically excluded from gross income. Accordingly, the following items would be excluded:

- Specified survivor benefits and insurance payments received as compensation for deaths or injuries incurred as a result of terrorist attacks against the United States.
- Any discharge of indebtedness by reason of the death or injury of a person arising from terrorists' attacks occurring on or after September 11, 2001, and before January 1, 2002, also would be excluded from income.
- In addition, this bill would conform to the federal extension of time for the payment of tax liabilities owed by persons affected by terrorist attacks occurring on or after September 11, 2001.
- Additionally, insurance benefits paid by an exempt charitable organization by reason of terrorists' attacks on or after September 11, 2001, and before January 1, 2002, would be treated as payments made in the furtherance of the charitable purpose of that organization.

### **SB 145 (Perata)**

*As amended January 29, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would conform to the federal safe harbor provisions related to required estimated tax payments.

In particular, this bill would eliminate the 80 percent income subject to withholding safe harbor, and would conform to the 90 percent current year tax liability safe harbor. In addition, the bill would require that alternative minimum tax be included in the computation of required estimated tax payments. This bill would not conform to the federal \$1,000 de minimis safe harbor but instead would retain the state \$200 de minimis exception.

### **SB 657 (Scott)**

*As amended February 26, 2002*

This bill would conform state law to the pension plan, Education IRA (Coverdell Education Savings Account), and Qualified State Tuition Plan Changes contained in the Federal Economic Growth and Tax Relief Reconciliation Act of 2001. This bill also would conform to the federal change denying the deduction for club dues and the deduction of excess compensation for officers of a publicly held company.

### **SB 1256 (Brulte)**

*As amended February 25, 2002*

This bill would conform state law to the pension plans, Education IRA (Coverdell Education Saving Account or Coverdell Account), and Qualified Tuition Plan changes contained in the Federal Economic Growth and Tax Relief Reconciliation Act of 2001.

### **SB 1724 (Speier)**

*As introduced February 21, 2002*

This bill would further conform state law with federal income tax laws by denying a deduction for certain lobbying and political expenditures.

## Conservation

### **AB 2630 (Harman)**

*As introduced February 22, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would delete the 5-year limitation on the carryover of any excess qualified

*Continued on page 7*

# Proposed Legislation

*Continued from page 6*

conservation contribution and would allow a carryover to all succeeding taxable years until exhausted.

## Corporation Income Tax

### AB 2560 (Vargas)

*As introduced February 21, 2002*

Under the Corporation Tax Law, this bill would:

- Change the apportionment formula used to determine the amount of business income taxable by California to a single-factor apportionment formula based on sales;
- Require certain corporations to use the current three-factor formula based on property, payroll, and double-weighted sales; and
- Allow extractive businesses to choose either the current three-factor formula based on property, payroll, and single-weighted sales, or use the new single-factor formula.

### AB 1875 (Nakano)

*As amended March 7, 2002*

This bill would allow certain corporations to dissolve by filing articles of dissolution.

## Credits

### AB 1862 (Wyman)

*As introduced January 31, 2002*

### SB 1776 (Poochigian)

*As introduced February 21, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would allow a credit to employers equal to 100 percent of the benefits paid to a qualified employee who is called to active military duty as a result of Operation Enduring Freedom.

### AB 1885 (Liu)

*As introduced February 5, 2002*

Under the Personal Income Tax Law, this bill would allow a credit equal to the

eligible amount paid or incurred by a qualified taxpayer for continued group health plan coverage.

### AB 2164 (Cogdill)

*As introduced February 20, 2002*

Under the Personal Income Tax Law, this bill would allow a credit equal to 25 percent of the net tax of an individual who is a qualified medical care professional.

### AB 2304 (Wyman)

*As introduced February 21, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would allow a credit equal to a specified percentage of qualified wages. The percentage would vary from 50 percent to 10 percent, depending on the taxable year.

### AB 2487 (Bates)

*As introduced February 21, 2002*

### SB 1631 (Morrow)

*As introduced February 21, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would allow a credit in an amount equal to the amount of property tax paid or incurred that is attributable to any rental housing to accommodate members of the armed forces and their families.

### AB 2664 (Hollingsworth)

*As introduced February 22, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would amend the existing teacher retention credit by allowing teachers with at least one year of service rather than four years of service to claim the credit. In addition, the credit amount would be increased and would vary from \$750 to \$2,000 depending on the number of years of service rather than \$250 to \$1,500. Under the Personal Income Tax Law and the Corporation Tax Law, this bill also would establish two new credits. First, the bill would allow a credit for each child of the taxpayer who is enrolled in and attends a private school located in this state and providing education for kindergarten, grades 1 to 12, inclusive, or any part

thereof. The second credit would equal 50 percent of the cost paid or incurred by the taxpayer during the taxable year for providing home-school education for kindergarten, grades 1 to 12, inclusive, or any portion thereof, for any child of the taxpayer.

### AB 2720 (Aanestad)

*As introduced February 22, 2002*

Under the Personal Income Tax Law, this bill would allow a 100 percent credit for the costs of medical and health services paid or incurred by a qualified senior citizen.

### AB 2694 (Hollingsworth)

*As introduced February 22, 2002*

### AB 2702 (Zettel)

*As introduced February 22, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would provide complete conformity to the federal credit percentages as of January 1, 1998, for the alternative incremental research expense credit. Thus, the credit percentages would be increased from 1.49 percent to 1.65 percent, from 1.98 percent to 2.2 percent, and from 2.48 percent to 2.75 percent.

### AB 2705 (Wyland)

*As introduced February 22, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would allow a credit equal to 50 percent of the amount paid or incurred during the period from June 1, 2000, to February 7, 2001, inclusive, by a small-to-medium size commercial customer, that represents excess energy costs.

### SB 1273 (Haynes)

*As introduced January 15, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would allow a credit equal to 70 percent of the amount of qualifying contributions to a nonprofit educational assistance organization, as defined. The credit

*Continued on page 8*

## Proposed Legislation

*Continued from page 7*

would not be applicable to contributions designated for the benefit of a specific student.

### **SB 1274 (Haynes)**

*As introduced January 15, 2002*

This bill would allow a credit equal to the fair market value of the services rendered without charge by an attorney, physician, or surgeon licensed to practice in this state for any nonprofit charitable organization located in this state that provides services to the poor.

### **SB 1275 (Haynes)**

*As introduced January 15, 2002*

Under the Personal Income Tax Law, this bill would allow a 100 percent credit for the amount paid or incurred for a gun safe or other firearm safety equipment that complies with standards specified in the Penal Code.

### **SB 1300 (Haynes)**

*As introduced January 18, 2002*

This bill would enact the California New Market Venture Capital Program Act of 2002, requiring the Technology, Trade and Commerce Agency to establish a new program by the same name. Under the Personal Income Tax Law and the Corporation Tax Law, this bill would establish two credits. The first credit would be for qualified equity investments in qualified community development entity. The second credit would equal 20 percent of the fair market value of any qualified contribution to a qualified donee that was a nonprofit corporation including a land conservancy or land trust for the principal purpose to enable housing or community development projects for persons who are disadvantaged, have a transitional need, have low-income or are a member of a targeted group as defined by the Internal Revenue Code.

### **SB 1462 (Morrow)**

*As introduced February 15, 2002*

This bill would express Legislative findings and declarations that it is in the best interests of this state to provide a small measure of relief in the form of a \$50 credit against the personal income tax liability of certain surviving spouses of military retirees.

### **SB 1786 (Karnette)**

*As introduced February 22, 2002*

Under the Personal Income Tax Law, this bill would allow a credit to a faculty member or academic employee of a community college. The credit amount would vary from \$500 to \$1,500 depending upon years of service.

### **SB 1940 (Speier)**

*As introduced February 22, 2002*

Under the Personal Income Tax Law, this bill would allow a credit, not to exceed \$150 per individual, for qualified personal travel expenses.

The bill would specifically exclude travel for which the expenses would otherwise be deductible in connection with a trade or business activity engaged in for the production of income.

Under the Personal Income Tax Law and the Corporation Tax Law, this bill also would provide that state law does not conform to the federal denial of deductions for club dues.

## **Debt collection**

### **AB 1845 (Correa)**

*As introduced January 28, 2002*

This bill would allow any lien that is filed to enforce either a court-ordered restitution fine or victim's restitution order to take priority over any state tax lien.

### **AB 2388 (La Suer)**

*As introduced February 21, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would extend from January 1, 2003, to January 1,

2006, the sunset date for our Court Ordered Debt collection program.

### **AB 2414 (Campbell, Bill)**

*As introduced February 21, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would generally provide that an assessment would become uncollectable after 10 years have elapsed from the date an assessment of tax imposed on an individual is due and payable. We would be required to release, withdraw, or otherwise terminate any action taken on an uncollectable assessment of tax.

### **AB 2680 (Cox)**

*As introduced February 22, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would provide that unless a taxpayer agrees to an extension of time for issuance of a notice of action, we must issue a notice of action upon a protest no later than two years from the date the protest was filed by the taxpayer.

### **SB 1400 (Romero)**

*As introduced February 13, 2002*

This bill would allow a taxpayer to post a bond instead of paying the disputed income or franchise tax while challenging an assessment in court. The bond must guarantee the amount of tax assessed and any interest and penalties that may be expected to be due within the first year of the court action.

### **SB 1477 (Speier)**

*As introduced February 19, 2002*

Under the Government Code, this bill would require the Student Aid Commission to enter into an interagency agreement with us to collect all or part of the commission's outstanding accounts receivable. The Student Aid Commission would be required to develop criteria and policy that would define when an account is delinquent and subject to collection by us. This policy and criteria also may include a minimum dollar threshold for delinquencies that would be referred to us.

*Continued on page 9*



# Proposed Legislation

Continued from page 8

## Disasters

### SB 219 (Scott)

*As amended January 7, 2002*

For taxpayers affected by a presidentially declared disaster, this Franchise Tax Board sponsored bill would increase from 90 days to 120 days the filing extension period, and extend the waiver of interest provision to 120 days. This bill would apply to any disaster that occurs on or after September 11, 2001.

## Electronic filing

### AB 2781 (Cohn)

*As introduced February 25, 2002*

This bill would prohibit us from:

- Offering expanded online tax return filing, or developing or making available electronic products or services that would, in any way, determine or calculate a taxpayer's income tax liability.
- Employing the use of any system, software or computer code, online or interactive system, or associated technologies that electronically record, capture, store, observe, or monitor any usage or preparation of electronic tax forms transmitted by a taxpayer, other than the final form transmitted by, or on behalf of, the taxpayer to us.

## Enterprise zones

### AB 1846 (Correa)

*As introduced January 28, 2002*

Under the Government Code, this bill would generally extend the 20-year designation period to all enterprise zones that meet specified criteria by removing the provision that limits the 20-year designation to only those zones designated prior to 1990.

### AB 1971 (Matthews)

*As introduced February 14, 2002*

Under the Government Code, this bill would authorize the Technology, Trade and Commerce Agency to designate an additional two enterprise zones. Thus, the total number of enterprise zones would increase from 42 to 44.

### AB 2342 (Salinas)

*As introduced February 21, 2002*

Under the Government Code, this bill would authorize the Technology, Trade and Commerce Agency to designate two additional enterprise zones for a total of 44 enterprise zones. In addition, this bill would require Technology, Trade and Commerce Agency in designating enterprise zones to also consider geographic location and the community size of the proposed enterprise zone in order to evenly distribute enterprise zones throughout the state and among communities with varying sizes.

### AB 2562 (Vargas)

*As introduced February 21, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would provide that the enterprise zone sales and use tax credit (on qualified property) and the enterprise zone hiring credit, including any credit carryover from prior years, may be transferred, pursuant to an agreement to provide financing to the transferor, to any other taxpayer in the state if the credit used by the transferee does not exceed the amount of credit that would otherwise be available to the transferor. Under the Corporations Code, this bill would require the Technology, Trade and Commerce Agency to establish a disaster loan guarantee program for the border development zone. TTCA would allocate funds to the City of Calexico for the Small Business Development Center in this city and to the City of San Diego for the California Mexico Trade Assistance Center in San Ysidro.

### AB 2977 (Assembly Jobs, Economic Development, and Economy)

*As introduced February 26, 2002*

This bill would allow the governing body of a city or county to apply to the Technology, Trade and Commerce Agency for the reconfiguration of the geographic boundaries of an existing enterprise zone within its jurisdiction and would allow the Technology, Trade and Commerce Agency to approve that application.

## Exclusions

### AB 1842 (Campbell, Bill)

*As introduced January 28, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would provide for an exclusion from state gross income of 50 percent of any gain from the sale or exchange of a capital asset, as defined by the Internal Revenue Code, held for more than one year.

### AB 1887 (Hollingsworth)

*As introduced February 5, 2002*

Under the Personal Income Tax Law, this bill would exclude from California gross income any social security retirement income and benefits and any income from retirement annuities attributable to federal civil service.

### AB 1897 (Zettel)

*As introduced February 6, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would exclude from California gross income 50 percent of any gain from the sale or exchange of a capital asset held for more than one year. A capital asset would be defined by reference to the Internal Revenue Code.

### AB 1968 (Nation)

*As amended March 20, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would exclude from California gross income any amount received as a rebate, voucher, or other financial incentive issued by the

Continued on page 10

## Proposed Legislation

*Continued from page 9*

California Energy Commission, the Public Utility Commission, or a local publicly owned electric utility for any expenses paid or incurred for the purchase or installation of any of the following devices designed to serve all or part of that taxpayer's electrical or thermal load:

- A thermal or solar system, as defined by the Public Resources Code,
- A wind energy system device that produces electricity, or
- A fuel cell generating system that produces electricity.

### **AB 2168 (Bogh)**

*As introduced February 20, 2002*

Under the Personal Income Tax Law, this bill would exclude from California gross income up to \$10,000 of retirement income or retirement benefits. The exclusion would not apply to a taxpayer filing:

- As an individual who had total income in excess of \$50,000, or
- A married couple filing a joint return, a surviving spouse, or a head of household with total income in excess of \$100,000.

### **AB 2358 (Bates)**

*As introduced February 21, 2002*

Under the Personal Income Tax Law, this bill would exclude from California gross income any gain from the acquisition, sale, or exchange of a stock option in a qualified high technology business located in this state that is received by an employee, officer, or director of, or investor in, that business.

### **AB 2557 (Leach)**

*As introduced February 21, 2002*

Under the Personal Income Tax Law, this bill would exclude from gross income any distribution under a Scholarshare Trust agreement to a beneficiary.

### **SB 1662 (Peace)**

*As introduced February 21, 2002*

Under the Personal Income Tax Law, this bill would provide that any gain from the sale or exchange of a capital asset, as defined, that is held for more than one year would be subject to reduced tax rates of 2.323 percent or 4.65 percent depending upon taxable income and filing status.

### **SB 2051 (Bowen)**

*As introduced February 22, 2002*

This Franchise Tax Board sponsored bill would exempt tax matters related to tax liability from the Information Practices Act provisions relating to the record amendment process and the Information Practices Act cause of action for not complying with the amendment process.

### **Illegal activities**

#### **AB 1910 (Matthews)**

*As introduced February 7, 2002*

This Franchise Tax Board sponsored bill would allow individuals to be prosecuted under the Revenue and Taxation Code for illegally obtaining state-issued income tax refunds by direct deposit return or any other method. The bill also would allow us to recoup related investigation costs.

### **Information reporting**

#### **AB 2449 (Correa)**

*As introduced February 21, 2002*

This bill would require establishment owners who run a beauty or barbering business to file quarterly reports with us disclosing the Bureau of Barbering and Cosmetology license number of each booth renter or independent contractor who is either currently working in the owner's facility, or that worked in the facility during the quarter which is the subject of the report.

### **Lake Shastina Mutual Water Company**

#### **SB 1977 (Johannessen)**

*As introduced February 22, 2002*

Under the Corporation Tax Law, this bill would provide that the contribution or

other transfer of the assets of the Lake Shastina Mutual Water Company to the Lake Shastina Community Services District, is not a transfer subject to tax if certain requirements are met.

### **Marginal tax rate**

#### **SB 1255 (Burton)**

*As introduced January 9, 2002*

Under the Personal Income Tax Law, this bill would add a 10 percent and an 11 percent marginal tax rate for individuals with taxable income over specified amounts. The income tax brackets would be adjusted for inflation for taxable years beginning on or after January 1, 2003.

### **Medical savings accounts**

#### **SB 1487 (McClintock)**

*As introduced February 19, 2002*

Under the Personal Income Tax Law, for taxable years beginning on or after January 1, 2002, this bill would provide that the federal provisions relating to limitation on the number of taxpayers having medical savings accounts and the determination of whether numerical limits are exceeded, would not apply. Thus, an otherwise eligible individual would be permitted a deduction for the amount deposited in a medical savings accounts.

### **Miscellaneous**

#### **AB 2979 (Assembly Revenue and Taxation Committee)**

*As introduced February 27, 2002*

This Franchise Tax Board sponsored bill would:

1. Amend the Government Code to delete an obsolete reference.
2. Give us statutory authority both to accept e-signatures for returns and to prescribe procedures for e-signatures for returns.
3. Include clerical error as a basis for an income tax assessment.
4. Address an administrative problem in the processing of the Child and Dependent Care Credit.

*Continued on page 11*

## Proposed Legislation

*Continued from page 10*

5. Make the following changes to certain penalties assessed by us:

- Require taxpayers to pay the full amount of the frivolous return penalty prior to filing a claim for refund, and
- Allow us to cross-claim for the balance of a partially paid penalty for promoting an abusive tax shelter or aiding and abetting an understatement of tax liability.

6. Make the following changes to the Senior Citizens Homeowners and Renters Property Tax Assistance Laws:

- Update statutory cross-references,
- Remove outdated language, and
- Change the start date for filing a Homeowners and Renters Property Tax Assistance claim.

### **SB 1660 (Scott)**

*As introduced February 21, 2002*

This bill would make the following changes:

1. Allow the statute of limitations for filing income tax refund claims to be suspended when a taxpayer is financially disabled.
2. Eliminate obsolete transition rules relating to conformity to federal law on pooled debt obligations.
3. Prohibit taxpayers from amending certain tax related items using the Information Practices Act of 1977.
4. Extend the sunset date of our authority to collect on amounts imposed by a court.
5. Require a taxpayer to make his or her request for abatement of interest during the administrative process and prohibit a later request.
6. Provide that a substantial understatement of tax exists if EITHER the federal threshold is met for federal tax purposes or the existing California threshold is met.
7. Clarify that federal penalty

assessments are federal determinations that must be reported to us.

8. Allow us to identify vexatious requestors and limit the number of information requests that individual could make.

9. Explicitly provide that dividends paid by a Regulated Investment Company to California corporate shareholders may not obtain the benefit of the exclusion from income allowed under existing law, except for dividends received from corporations in the Regulated Investment Company portfolio that are unitary with that corporation.

### **Net operating losses**

#### **SBX3 7 (Haynes)**

*As introduced January 28, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would increase from 65 percent to 100 percent the percentage of the net operating loss that may be carried forward, and would increase to 20 the number of years the net operating loss may be carried forward. Both provisions would conform to federal law and would apply to net operating losses incurred in taxable years beginning on or after January 1, 2003.

### **Nonresident, part-year resident**

#### **AB 2980 (Assembly Revenue and Taxation Committee)**

*As introduced February 27, 2002*

This Franchise Tax Board sponsored bill would repeal the provision that disallows the deduction for alimony payments for nonresidents and part-year residents for the portion of the year for which the taxpayer was not a resident of California.

### **Pierce's Disease**

#### **AB 2640 (Strickland)**

*As introduced February 22, 2002*

Under the Personal Income Tax Law and the Corporation Tax Law, this bill would expand the net operating loss deduction attributable to Pierce's disease that is currently available to taxpayers conducting a farming business to taxpayers engaged in a nursery business.

### **Settlement**

#### **SB 1445 (Alpert)**

*As introduced February 15, 2002*

This Franchise Tax Board sponsored bill would make two enhancements to our authority to settle tax disputes:

- Increase the small case threshold (where the Executive Officer and Chief Counsel may approve a settlement) from \$5,000 to \$7,500 and index that amount in future years to reflect inflation, and
- Allow a settlement agreement to include tax matters that would otherwise be included in a closing agreement.

### **Tax Me More Act**

#### **SB 1288 (McClintock)**

*As introduced January 17, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would create the Tax Me More Act, and would allow a taxpayer to pay additional taxes in excess of the taxes owed for the taxable year, if any.

### **Theft loss**

#### **SB 1602 (Oller)**

*As introduced February 20, 2002*

Under the Personal Income Tax Law, this bill would allow a taxpayer the option of claiming a theft loss in the taxable year in which:

- The taxpayer discovers the loss; or
- The taxable year in which the loss was sustained provided that the thief was convicted of committing that theft.

### **Tourism**

#### **SB 1286 (Haynes)**

*As amended March 6, 2002*

For qualified taxpayers engaged in a business in the tourism industry, this bill would increase from 65 percent to 100 percent the percentage of the net

*Continued on page 12*

# Proposed Legislation

Continued from page 11

operating loss that may be deducted, and would increase to 20 the number of years the net operating loss may be carried forward.

## Voluntary Contributions

**AB 2127 (Matthews)**  
*As introduced February 20, 2002*

Under the Administration of Franchise and Income Tax Law, this bill would repeal the obsolete California Lung Disease and Asthma Research Fund, and instead create a new Asthma and Lung Disease Research Fund. Individuals would be allowed to designate contributions to this new fund on their income tax returns. The new fund will not appear on the income tax return until another voluntary contribution designation is removed, and would be operative for five years after that date.

## Ask the Advocate

Continued from page 3

*Your client's current mailing address and your daytime phone number.*

*The amount in protest and taxable year involved.*

*An explanation of why our action is wrong and information/documentation in support of your*

*client's position.* You should also include a statement of facts.

If your client wants to have an oral hearing, you must state this request in the letter of protest. You or your client should sign and date the letter. Mail your protest to:

Protest Section  
Franchise Tax Board  
PO Box 942867  
Sacramento CA 94267-5540

# Innocent spouse

Continued from page 3

will enable taxpayer representatives to be better equipped to support their clients claims for relief and to proactively address the issue of tax liabilities during divorce proceedings. To request a presentation at a seminar or a meeting of

taxpayer representatives, call Laureen Philipp, Innocent Spouse Program Manager, at (916) 845-5838. You may also call the preceding telephone number if you have questions or concerns about the program. Public input is regarded as vital to the success of the program.

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